
 <p style="text-align: center;">ADMINISTRATIVE REGULATION</p> <p style="text-align: center;">STATE OF ARKANSAS</p> <p style="text-align: center;">BOARD OF CORRECTION AND COMMUNITY PUNISHMENT</p>	Section Number: DOC 850 AR 7.19	Page Number: 1
	Board Approval Date: 8/24/95	
	Supersedes: DOC 850 DCP N/A	Dated: 8/28/91
	Reference: 12-29-404	Effective Date: 9/20/95
SUBJECT: OFFENDERS WITH AN INCURABLE ILLNESS OR PERMANENTLY INCAPACITATED		


- I. **AUTHORITY.** The Board of Correction and Community Punishment (BCCP) is vested with the authority to promulgate administrative regulations by Ark. Code Ann. §§ 12-27-105 and 16-93-1203 (Michie Suppl. 1993).
- II. **PURPOSE.** To establish the criteria for determination of incurable illness and permanent incapacitation, and the procedures for referring offenders meeting those criteria to the Post Prison Transfer Board (PPTB) or court of jurisdiction who will make a determination of eligibility for transfer to DCP community supervision.
- III. **APPLICABILITY.** To convicted felons not under sentence of death who have been identified by a physician as having an incurable illness or to be permanently incapacitated, to medical staff and consulting physicians, and to administrative staff of the Arkansas Department of Correction (ADC) and Department of Community Punishment (DCP).
- IV. **DEFINITIONS.**
 - A. **Incurable Illness.** An illness which, in the independent opinion of two physicians would be expected, on the average, to result in death within 12 months, despite treatment that meets community standards of care.
 - B. **Permanently Incapacitated.** A condition resulting from illness, trauma, or age that renders the individual incapable, either mentally or physically of planning or carrying out future criminal behaviors, and debilitates the individual to a point that a specialized medical setting is required for long term care. This condition, in the independent opinion of two physicians, is considered not to be substantially reversible in standard medical practice.
 - C. **Offenders.** Persons incarcerated or confined in the facilities of the Arkansas Department of Correction or the Department of Community Punishment.
 - D. **Community Supervision.** Regular contact and monitoring of offenders by probation or parole officers, to ensure compliance with the terms and conditions of release or probation.
- V. **POLICY.** It shall be the policy of the ADC and DCP to establish a system whereby incurably ill and permanently incapacitated individuals are identified and called to the

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attention of the Post Prison Transfer Board to be considered for transfer to community supervision.

VI. PROCEDURE.

- A. Upon recognition that an offender is incurably ill or permanently incapacitated, the physician shall make this condition known in writing to the Medical Director, clearly stating the diagnosis and prognosis and the degree to which the condition affects the capacity of the offender to carry out voluntary and self-care activities.
- B. The Medical Director shall make, or cause to be made, an independent assessment. If there is disagreement as to whether criteria are met, the Medical Director may set a date for reassessment or request a third opinion by a specialist.
- C. The Medical Director or designee shall contact the Administrator of Mental Health Services or designee and request a psychological evaluation on the offender.
- D. The originals of all documents shall be sent to the Office of the Administrator of Medical Services/Deputy Director for Residential Services, as appropriate who shall review them for completeness, and once any questions are answered, forward them to the ADC or DCP Director, as appropriate.
- E. The Director shall review the documents and may make any comments or add any information deemed appropriate, and shall forward the documents to the ADC Assistant Parole Administrator/DCP Assistant Director for Field Operations.
- F. The Assistant Parole Administrator/Assistant Director of Field Operations shall cause any field investigations, contacts or other actions specified by the Post-Prison Transfer Board to be done, and shall forward the information to the Post-Prison Transfer Board or court of jurisdiction in the case of DCP, Probation or Suspended Imposition of Sentence (SIS) Residents pursuant to state law and DCP Administrative Directives.
- G. Medical Services and/or Mental Health Services will provide any assistance requested by the Post Prison Transfer Board/court in generating a release plan that appropriately addresses the medical/mental health needs of the offender.

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H. DCP Probation/SIS residents will be treated in accordance with the determination of the court.

VII. REFERENCES. Act 290 of 1995 and Ark. Code Ann §§ 12-29-404.